

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

KAMAL P. LALWANI, *et al.*,)
vs.)
Plaintiffs,) Case No. 2:11-cv-00084-KJD-PAL
NEVADA ASSOCIATION SERVICES, INC.,)
et al.,)
Defendants.) **ORDER**

The court conducted a hearing on August 23, 2011, on Defendant Wells Fargo's Motion for Sanctions or in the Alternative Motion to Compel (Dkt. #32), and Defendant Wells Fargo and MERS Corp., Inc.'s Emergency Motion to Extend Dispositive Motion Deadline (Dkt. #36). The Plaintiffs received notice of the hearing but did not appear. Robin Perkins appeared on behalf of Defendants Wells Fargo and MERS Corp.

The Complaint in this case was filed in state court and removed (Dkt. #1) January 18, 2011. Defendants MERS Corp., Inc. and Mortgage Electric Reg. Sys., Inc. responded to the complaint by filing a Motion to Dismiss (Dkt. #6) January 25, 2011. Defendant Wells Fargo also filed a Motion to Dismiss (Dkt. #8) January 25, 2011. Both motions to dismiss have been fully briefed and are under submission to the district judge.

Wells Fargo's Motion for Sanctions or in the Alternative Motion to Compel (Dkt. #32) seeks sanctions and an order compelling the Plaintiffs to respond to a first set of request for production of documents served June 8, 2011. The motion also seeks an order compelling the Plaintiffs to appear for their deposition. Counsel for Wells Fargo noticed both Plaintiffs' deposition for July 1, 2011, and attempted to contact the Plaintiffs telephonically June 27, 2011, to remind them about their deposition. However, the person answering the phone indicated the Plaintiffs were not at home. Plaintiffs did not

1 appear for their depositions. Plaintiffs have also not responded to the requests for production of
2 documents, requested an extension of time to respond, or responded to multiple efforts by counsel for
3 Wells Fargo to obtain this discovery without the court's intervention.

4 Defendant's Emergency Motion to Extend Dispositive Motion Deadline (Dkt. #36) points out
5 that two dispositive motions are under submission to the district judge. The court's Discovery Plan and
6 Scheduling Order (Dkt. #29) established an August 10, 2011 deadline for filing dispositive motions.
7 Defendants request a 60-day extension to file dispositive motions to allow the pending dispositive
8 motions and issues raised in those motions to be determined before any additional dispositive motions
9 are filed.

10 Plaintiffs did not oppose the motions, request an extension of time to do so, or appear for the
11 hearing of which they received notice by mail. The court waited ten minutes past the scheduled hearing
12 time to call the matter. LR 7-2(d) provides, in pertinent part that "[t]he failure of an opposing party to
13 file points and authorities in response to any motion shall constitute a consent to the granting of the
14 motion."

15 Having reviewed and considered the matter and for good cause shown,

16 **IT IS ORDERED** that:

17 1. Defendant Wells Fargo's Motion for Sanctions or in the Alternative Motion to Compel
18 (Dkt. #32) is **GRANTED in part** and **DENIED in part**.

19 a. The motion is granted to the extent that Plaintiffs shall have until September 6,
20 2011, to serve full and complete responses to Defendant Wells Fargo's requests
21 for production served June 8, 2011. Failure to timely comply with this order will
22 result in sanctions, up to and including a recommendation that Plaintiffs'
23 complaint be dismissed for failure to meet their discovery obligations and failure
24 to comply with the court's order.

25 b. Plaintiffs shall make themselves available to appear for deposition no later than
26 September 27, 2011. Failure to appear for their duly-noticed depositions will
27 result in the imposition of sanctions up to and including a recommendation that
28 Plaintiffs' complaint be dismissed for failure to meet their discovery obligations

1 and failure to comply with the court's order.

2 2. Wells Fargo's request for any additional sanctions is **DENIED**, and any request for relief
3 not specifically address in this order is **DENIED**.

4 3. Defendants' Emergency Motion to Extend Dispositive Motion Deadline (Dkt. #36) is
5 **GRANTED** to the extent that Defendants shall have 30 days from decision of the
6 pending dispositive motions to file any additional dispositive motions not already
7 adjudicated in their pending motions to dismiss.

8 Dated this 26rd day of August, 2011.

9
10 
11 Peggy A. Teen
United States Magistrate Judge